IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

WRIT PETITION NO.3253 OF 2006

Mohammad Zahir Sheikh & Ors. ...Petitioners.

Vs.

Faruk Rustam Zaheri (Irani) & Ors....Respondents.

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Mr.P.N.Joshi for the Petitioners.

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CORAM : DR.D.Y.CHANDRACHUD, J.

June 12, 2006.

P.C. :

The decree for eviction has been set aside in an appeal, by the Additional District Judge at Nasik. The Additional District Judge has remanded the matter back to the Civil Judge, Junior Division for trial. From the impugned order it would appear that the summons was served upon the Defendant, to appear before the 3rd Joint Civil Judge, Junior Division on 30th July 1999. The suit was transferred to the Court of the 11th Joint Civil Judge, Junior Division in January 2000. Notice of

the transfer of proceedings was not served on the Defendant. The Appellate Court was in these circusmtances, justified in directing that the suit be tried afresh. Hence, no interference under Article 227 of the Constitution is warranted. However, the Learned Trial Judge is requested to endeavour to expeditiously dispose of the suit. It would be open to the Learned Trial Judge upon being moved by the Petitioners herein, to fix a time schedule for expeditious disposal of the suit, preferably within a period of one year from today.

The Petition is dismissed.

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